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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,882	02/14/2002	Kazuaki Onishi	2038-286	6757

22429 7590 03/30/2004

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

3

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/073,882

Applicant(s)

ONISHI ET AL.

Examiner

Jacqueline F Stephens

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 1 and 5 are objected to because of the following informalities:

- In claim 1, the word "impervious" is misspelled inline 4.
- In claim 5, the word "edge" is misspelled in line 3 of the claim.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 08196565 in view of Bruemmer et al. USPN 5176672.

As to claim 1, JP 08196565 discloses a disposable diaper having a front waist region, a rear waist region, and a crotch region. The crotch region comprises a basic absorbent batt structure **21** having a liquid-pervious body facing surface and a liquid-impervious garment facing surface; at least one supplementary absorbent batt structure **20A** having a liquid-pervious body facing surface and an opposite inner surface (Figure 2). The supplementary absorbent batt structure **20A** is placed upon the body facing surface of the basic absorbent batt structure so as to extend from said front waist region toward said crotch region (Figure 2).

JP 08196565 does not disclose the basic absorbent batt structure **21** is formed in a transversely middle region of the body facing surface thereof with a cavity that extends from the crotch region toward said front waist region. JP 08196565 discloses a pocket formed by two absorbent pads as disclosed above. However, in use, pressure from a wearer may cause the pocket to close and the fecal material can then contact the wearer. Bruemmer discloses an absorbent article having a cavity in the absorbent core for the benefit of isolating and containing waste material away from the skin of the wearer (Bruemmer col. 1, lines 24-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the absorbent of JP 08196565 with a cavity for the benefits disclosed in Bruemmer. The combination of JP 08196565 and Bruemmer provides an absorbent article where fecal material is

positioned in the lowest part of the absorbent for the purpose of keeping fecal matter from soiling the genitals and isolating fecal material.

JP 08196565/Brummer discloses the supplementary absorbent batt structure **20A** covers the upper opening of the cavity, which extends in the crotch region (Figure 2 JP 08196565). A feces receiving space **28** is formed between the supplementary absorbent batt structure **20A** and the cavity so as to extend from the crotch region toward the front waist region. The upper opening of the cavity is partially uncovered in the crotch region defining an inlet that is contiguous to the feces receiving space (Bruemmer, Figure 1).

As to claim 2, JP08196565/Bruemmer discloses the basic absorbent batt structure **21** comprises a liquid-pervious topsheet **2** defining a body facing surface thereof, a liquid-impervious backsheet **3** defining a garment facing surface thereof and a liquid-absorbent first core **21** disposed therebetween (Figure 2).

As to claim 3, JP08196565/Bruemmer discloses the supplementary absorbent batt structure **20A** comprises a liquid-absorbent second core **20A** and a liquid-pervious sheet **2** covering at least a body facing surface of said second core (Figure 2) .

As to claim 10, JP08196565/Bruemmer discloses a second supplementary absorbent batt structure **20BA** having a body facing surface and an opposite inner surface which is at least partially covered with a liquid-pervious sheet **2** and extends

from the rear waist region toward the crotch region on the body facing surface of the basic absorbent batt structure **21**. The cavity formed in the transversely middle region of the basic absorbent batt structure extends from the crotch region toward the front and rear waist regions (Bruemmer Figure 1). The upper opening of the cavity is covered with the second supplementary absorbent batt structure **20B** in the rear waist region and partially covered with the second supplementary absorbent batt structure in the crotch region (JP 08 196565, Figure 2 for the structure of two secondary absorbent batts) forming and a second feces receiving space **29** formed between the second supplementary absorbent batt structure and the cavity so as to extend from the crotch region toward the rear waist region wherein the feces inlet **15** is contiguous to the feces receiving space **28** and the second feces receiving space **29** is formed between the two supplementary absorbent batt structures (JP 08196565).

5. Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 08196565 in view of Bruemmer as applied to claim 1 above, and further in view of Chmielewski USPN 6699228.

As to claim 4, JP 08196565/Bruemmer disclose the present invention substantially as claimed. However, JP 08196565/Bruemmer do not disclose a barrier cuff extending outwardly of each of the supplementary absorbent structures. Chmielewski discloses a barrier cuff **708** extending outwardly of the supplementary absorbent batt structure **70** (Figure 2) for the benefit of (in combination with the

backsheet) substantially encasing the fluff pulp or equivalent absorbent material in the upper absorbent (Chmielewski col. 9, lines 54-59). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of JP 08196565/Bruemmer with barrier cuffs for the benefits disclosed in Chmielewski.

As to claim 5, JP 08196565/Bruemmer Chmielewski discloses the barrier cuffs **708** are elasticized by elastic members **718** secured along said distal edge portions thereof (Chmielewski Figure 2).

As to claim 6, JP 08196565/Bruemmer/Chmielewski discloses the distal edge portions **712** of said barrier cuffs are positioned inwardly of said proximal edge portions **710** of said barrier cuffs (Chmielewski Figure 2).

As to claim 7, JP 08196565/Bruemmer disclose the present invention substantially as claimed. However, JP 08196565/Bruemmer do not disclose the basic absorbent batt structure comprises a pair of elasticized side flaps extending outwardly from transversely opposite side edges of said first core. Chmielewski discloses a basic absorbent batt structure 34 comprising a pair of elasticized side flaps **501**, **502** (formed by edges 304) extending outwardly from transversely opposite side edges of said first core (Chmielewski Figure 2 and col. 7, lines 15-27) for the benefit of providing a barrier to the lateral flow of waste material (Chmielewski col. 8, lines 6-7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to

modify the invention of JP 08196565/Bruemmer to have elasticized side flaps for the benefits disclosed in Chmielewski.

As to claim 8, JP 08196565/Bruemmer/Chmielewski discloses the side flaps **501**, **502** are elasticized by elastic members **504** (Chmielewski Figure 2).

As to claim 9, JP 08196565/Bruemmer/Chmielewski discloses the proximal edge portions of said barrier cuffs **710** are joined onto the side flaps **501**. The cuffs and side flaps are joined via their connection to sheet **301** (Chmielewski Figure 2).

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 08196565/Bruemmer as applied to claim 1 above, and further in view Reising USPN 4988345

As to claim 11, JP 08196565/Bruemmer disclose the present invention substantially as claimed. However, JP 08196565/Bruemmer does not disclose a plurality of walls protruding upward from the bottom of the cavity. Reising discloses an absorbent pad having apertures that extend in the longitudinal direction of the pad. The apertures in Reising protrude upward from the bottom of the cavity of the absorbent pad (Reising Figure 4 and col. 2, lines 44-60 ). Reising discloses the apertures provide the benefit of acquiring liquid rapidly and distributing the liquid to remote portions of the storage (Reising col. 2, lines 44-60). It would have been obvious to one having ordinary

skill in the art at the time the invention was made to modify the invention of JP 08196565/Bruemmer with apertures for the benefits disclosed in Reising. The apertures of the combination of JP 08196565/Bruemmer/Reising provide a plurality of wall protruding upward from the bottom of the cavity at a height substantially corresponding to a depth of the cavity and extending in the longitudinal direction on the body facing surface of the basic absorbent batt structure and transversely spaced one from another by a given interval so that said cavity is transversely divided by the walls.

As to claim 12, JP 08196565/Bruemmer/Reising disclose the walls extend in the crotch region but not in the front and rear waist regions (Reising Figure 4).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703)305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacqueline F Stephens  
Examiner  
Art Unit 3761



March 20, 2004